

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

**I move** that House Bill 1356 be amended to read as follows:

- 1 Page 15, after line 42, begin a new paragraph and insert:
- 2 "SECTION 14. IC 6-9-34 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2002]:
- 5 **Chapter 34. Uniform County Food and Beverage Tax**
- 6 **Sec. 1. This chapter applies to any county that is not required**
- 7 **to impose a food and beverage tax under any other chapter of this**
- 8 **article. However, a county that imposes a food and beverage tax**
- 9 **under this chapter may not also impose a food and beverage tax**
- 10 **under another chapter.**
- 11 **Sec. 2. (a) The definitions in IC 6-9-12-1 apply throughout this**
- 12 **chapter.**
- 13 **(b) As used in this chapter, "fiscal body" has the meaning set**
- 14 **forth in IC 36-1-2-6.**
- 15 **Sec. 3. (a) The fiscal body of the county may adopt an ordinance**
- 16 **to impose an excise tax, known as the county food and beverage**
- 17 **tax, on those transactions described in section 4 of this chapter.**
- 18 **(b) If a fiscal body adopts an ordinance under subsection (a), it**
- 19 **shall immediately send a certified copy of the ordinance to the**
- 20 **commissioner of the department of state revenue.**
- 21 **(c) If a fiscal body adopts an ordinance under subsection (a), the**
- 22 **county food and beverage tax applies to transactions that occur**
- 23 **after the last day of the month that succeeds the month in which**
- 24 **the ordinance was adopted.**

1       **Sec. 4. (a)** Except as provided in subsection (c), a tax imposed  
 2 under section 3 of this chapter applies to a transaction in which  
 3 food or beverage is furnished, prepared, or served:

- 4       (1) for consumption at a location or on equipment provided by  
 5 a retail merchant;  
 6       (2) in the county in which the tax is imposed; and  
 7       (3) by a retail merchant for consideration.

8       **(b)** Transactions described in subsection (a)(1) include  
 9 transactions in which food or beverage is:

- 10       (1) served by a retail merchant off the merchant's premises;  
 11       (2) sold by a retail merchant that ordinarily bags, wraps, or  
 12 packages the food or beverage for immediate consumption on  
 13 or near the retail merchant's premises, including food or  
 14 beverage sold on a "take out" or "to go" basis; or  
 15       (3) sold by a street vendor.

16       **(c)** The county food and beverage tax does not apply to the  
 17 furnishing, preparing, or serving of a food or beverage in a  
 18 transaction that is exempt, or to the extent the transaction is  
 19 exempt, from the state gross retail tax imposed by IC 6-2.5.

20       **Sec. 5.** The county food and beverage tax imposed on a food or  
 21 beverage transaction described in section 4 of this chapter equals  
 22 one percent (1%) of the gross retail income received by the  
 23 merchant from the transaction. For purposes of this chapter, the  
 24 gross retail income received by the retail merchant from a  
 25 transaction does not include the amount of tax imposed on the  
 26 transaction under IC 6-2.5.

27       **Sec. 6.** A tax imposed under this chapter shall be imposed, paid,  
 28 and collected in the same manner that the state gross retail tax is  
 29 imposed, paid, and collected under IC 6-2.5. However, the return  
 30 to be filed with the payment of the tax imposed under this chapter  
 31 may be made on a separate return or may be combined with the  
 32 return filed for the payment of the state gross retail tax, as  
 33 prescribed by the department of state revenue.

34       **Sec. 7.** The amounts received from the county food and beverage  
 35 tax shall be paid monthly by the treasurer of the state to the county  
 36 treasurer upon warrants issued by the auditor of state.

37       **Sec. 8. (a)** If a tax is imposed under section 3 of this chapter, the  
 38 county treasurer shall establish a food and beverage tax receipts  
 39 fund.

40       **(b)** The county treasurer shall deposit in this fund all amounts  
 41 received under this chapter.

42       **(c)** Any money earned from the investment of money in the fund  
 43 becomes a part of the fund.

44       **(d)** Money in this fund may be used for any legal or corporate  
 45 purpose of the county, including the pledge of money to bonds,  
 46 leases, or other obligations under IC 5-1-14-4.

47       **Sec. 9.** With respect to:

1           **(1) bonds, leases, or other obligations for which a pledge of**  
2           **revenues of the food and beverage tax imposed under this**  
3           **chapter has been made by the county; and**

4           **(2) bonds issued by a lessor that are payable from lease**  
5           **rentals;**

6           **the general assembly covenants with the county, the purchasers or**  
7           **owners of the bonds or other obligations described in subdivision**  
8           **(1), and the owners of bonds described in subdivision (2) that this**  
9           **chapter will not be repealed or amended in any manner that will**  
10          **adversely affect the imposition or collection of the food and**  
11          **beverage tax imposed by this chapter as long as the principal of**  
12          **any bonds, the interest on any bonds, or the lease rentals due under**  
13          **any lease are unpaid.".**

14          Renumber all SECTIONS consecutively.

            (Reference is to HB 1356 as printed January 30, 2002.)

---

Representative Whetstone